MINUTES

Eugene City Council
McNutt Room—Eugene City Hall
777 Pearl Street—Eugene, Oregon

September 22, 2010
Noon

COUNCILORS PRESENT: Mike Clark, Betty Taylor, Jennifer Solomon, Andrea Ortiz, George Poling, Chris Pryor, Alan Zelenka, George Brown, members.

In the absence of Her Honor Mayor Kitty Piercy, Council President Mike Clark called the September 22, 2010, work session of the Eugene City Council to order.

A. WORK SESSION: Council Subcommittee on Street Assessment Policy

Assistant City Manager Sarah Medary introduced City Engineer Mark Schoening and Data Manager Fred McVey, who provided a PowerPoint presentation on the recommendations of the Council Subcommittee on Street Assessment Policy for future street assessments. The subcommittee members were councilors Taylor, Solomon, and Poling.

Mr. Schoening noted the charge adopted by the subcommittee, which was to examine the current code regarding street assessments for possible changes that would address inequities in the code identified by the council in its past discussions. Those inequities were related to financing, local improvement district (LID) boundaries, and how individual properties were assessed.

Mr. Schoening and Mr. McVey reviewed the subcommittee's consensus recommendations and shared slides of actual improvement projects to illustrate the impact of each recommendation.

- *The subcommittee did not recommend changing the Eugene Code to extend the assessment payment period because the code currently allowed extension of the payment period through the ordinance levying the assessments for individual projects.*

- *The subcommittee recommended allowing deferral of street assessments until the sale or transfer of property, limited to owner-occupied single-family and duplex homes and contingent on the availability of funds.*

- *The subcommittee recommended including cul-de-sac and dead-end street properties within the local improvement district of the unimproved street to which they connect. The properties would be assessed at the same rate as abutting properties. Dead-end streets would be determined at the time of LID formation. Unimproved cul-de-sacs and dead-end streets should be improved at the time the unimproved street to which they connect was improved, with all of the improvement costs shared within the LID.*

- *The subcommittee did not recommend a "travel shed" approach to establishing the boundaries of an LID due to the complexity of identifying the benefitting properties.*

- *The subcommittee recommended the City develop a uniform assessment methodology for residential properties based upon a single-family residential assessment unit (RAU) with single-family and duplex homes being assigned one RAU.*

Mr. McVey noted the issues on which the subcommittee was unable to reach consensus, which included the RAU multiplier for multi-family properties. The subcommittee discussed RAU multipliers of 0.25 per dwelling unit and 0.35 per dwelling unit. Staff recommended a multiplier of 0.25 per dwelling unit because it moderated the cost shifts that staff anticipated for multi-family lots. The subcommittee could not concur on proportion of total lot area or proportion of total lot frontage as the method of apportionment to be used for the initial apportionment of assessable costs between residential and non-residential lots within an LID. Staff recommended the use of proportion of lot frontage.

Mr. Clark solicited comments from subcommittee members.

Ms. Taylor commended the work of the subcommittee and staff. She encouraged the council to support the subcommittee's recommendations and advocated for a separate vote on the consensus and non-consensus items.

Ms. Taylor wished that the City could stop assessing property owners altogether. She had long-time concerns about the injustice of the system. She thought the proposed code and policy changes were a step toward greater justice for those assessed.

Speaking to the recommendation that those who lived on dead end streets and cul-de-sacs be included in LIDS for unimproved roads to which they connected, Ms. Taylor believed the recommendation was justified by those residents need to use the unimproved road to reach other locations in the community. She said that if the City was to assess for such improvements, it should assess more than just the adjacent properties. She was pleased that the City had changed the term "benefiting property owner" to "abutting property owner."

Ms. Solomon also thanked staff. She said adding dead end streets and cul-de-sacs to an LID helped dilute the impact to property owners and would have made a significant difference to the residents living along Maple and Elmira streets as well as those living on Crest Drive. She thought the code changes increased fairness and would help mitigate the impact of street improvement projects on residents.

Mr. Poling also commended staff. He reminded the council that the revisions would go to a public hearing so the process was at the starting point. He looked forward to the council discussion. Mr. Poling agreed that the changes the subcommittee made spread out the costs of projects more evenly. He anticipated more streets would be improved as a result and there was a possibility projects could be larger, resulting in cost efficiencies.

Mr. Poling concurred with Ms. Taylor that the council should vote separately on the consensus and non-consensus recommendations.

Mr. Clark expressed concern that the inclusion of dead end streets and cul-de-sacs in an LID could potentially result in property owners living on those streets being assessed multiple times for road projects. He referred to the Crest Drive project as an example of his concern. He said those residents had to pay the cost of their own street when it was built and now the City was suggesting that they pay for improvements on roads that they could potentially use. He asked on what basis someone must participate in the LID, and if those living on cul-de-sacs and dead-end streets paid a different rate. Mr. Schoening said the properties of the cul-de-sac would have paid the costs of the cul-de-sac. The subdivision developer would have paid for the development and apportioned a cost to the lots. While the City could not codify the goal, the goal would be that when a project was developed, staff would examine the network of streets and consciously develop a project so that one street was not assessed repeatedly. Mr. Clark thought that seemed fundamentally inequitable.

Mr. Clark did not favor bringing unimproved streets into the city without a plan to improve them. Mr. Poling noted that the streets the subcommittee examined were already inside the city. Mr. Clark continued to question how property owners living on cul-de-sacs and dead-end streets were not paying twice. Mr. Poling said the subcommittee's recommendation was based on the fact that the only way those residents could reach their homes was via the improved road, so they benefitted from the improvement. City Attorney Kathryn Brotherton clarified that such residents were not paying twice for the same thing; they had paid for the construction of their own cul-de-sac or dead-end road, and were now being asked to share in the costs of improving a street that their property's accessibility depended on. Mr. Clark suggested the approach was arbitrary based on the fact that staff could select the scope of the project. City Attorney Brotherton did not believe the approach was arbitrary; she said she was hearing from staff that when it scoped projects, it would attempt to be as equitable as possible.

Ms. Solomon reminded Mr. Clark that the City Council approved the parameters of the LID and could make adjustments to the LID boundaries. She suggested that removed any arbitrariness from the process. Mr. Poling did not think the City could create LIDs with overlapping boundaries. Mr. Schoening concurred.

Mr. Zelenka joined the meeting via speakerphone.

Responding to a question from Mr. Pryor, Mr. Schoening acknowledged the possibility that in the example given, someone living on the improved cul-de-sac would be included in the LID but would not witness any construction on the cul-de-sac. Mr. Pryor did not want to see someone have to pay twice. He suggested in such cases, the RAU be fractionalized to recognize that.

Mayor Piercy arrived.

Mr. Pryor observed that given the City paid half the cost of improving an unimproved collector, all properties in Eugene were sharing in the cost.

At the request of Mr. Brown, Mr. Schoening identified the properties that would be assessed in the Jeppeson Acres example.

Responding to a question from Mr. Zelenka, Mr. Schoening said that it would staff's intent that unimproved cul-de-sacs were improved at the same time as unimproved collectors. Mr. Zelenka asked if Mr. Schoening could imagine a situation where that would not be the case. Mr. Schoening said no.

Ms. Ortiz thanked the subcommittee for its work. She observed many cul-de-sacs were paved but lacked curbs, gutters, and sidewalks and asked if property owners living on such facilities who did not want those amenities would have to pay the same for their improvement as those living on the unimproved collector. Mr. Schoening indicated that the council would decide whether to accept the staff recommendation or exclude the cul-de-sac. He suggested the council would exclude the cul-de-sac from the improvement but not the assessment. Ms. Ortiz pointed out that generally, people did not walk around cul-de-sacs and she envisioned that the council could direct staff to modify the project to eliminate sidewalks. She asked if the level of assessment would be commensurate to the improvement enjoyed by the property owner or if all property owners in an LID would be assessed equally. Mr. Schoening said that if the facility was defined as fully improved so that no further modifications were envisioned, all would share equally in the cost. Mr. McVey indicated it was possible to have a variable assessment dependent on the types of improvements associated with individual lots; while all may share in the overall cost of the main street improvement, there could be a separate assessment element for such things as additional sidewalks or other features. The council could direct staff to take that approach as part of the LID formation process.

Mr. Clark suggested that if one accepted the principle that if one lived on an improved street one had already paid for the street, someone living on an improved cul-de-sac landlocked by an unimproved road, that person on the improved cul-de-sac will be paying two full assessments. Mr. Schoening agreed. Mr. Clark said that merely because one had to drive on a road did not overcome the inequality of paying twice.

Ms. Taylor believed there was so much inequality in the system that it could not be entirely eliminated. She said a person who chose to purchase a property where they had to drive on an unimproved road benefited from the road improvement project and should help pay for it. She thought they benefited even more than the people who lived on the road, because they were getting a good way to get out of their home while people living on the road suffered from the construction impacts and the possible loss of trees and frontage. She believed that those individuals should have thought of such issues when they bought a house that took access onto an unimproved road.

Ms. Taylor, seconded by Mr. Poling, moved to approve the consensus recommendations of the subcommittee.

Mr. Poling reiterated that LIDs must have the approval of a majority of property owners.

Mr. Pryor supported the motion with the expectation of further conversation around the subjects of cul-de-sacs, dead end streets, and fractionalizing RAUs to recognize special circumstances.

Ms. Ortiz pointed out the council could modify LIDs to address specific issues raised by residents.

Mr. Clark supported the motion because the process was in the early stages, but would not support the final ordinance without alteration.

The motion passed 7:0; Mr. Zelenka did not vote.

Ms. Taylor, seconded by Mr. Poling, moved that the RAU be 0.35.

Ms. Solomon, seconded by Mr. Poling, moved to amend the motion to change the RAU to 0.25. The motion to amend passed 6:1; Ms. Taylor voting no.

The amended motion passed unanimously, 7:0.

Ms. Taylor, seconded by Mr. Poling, moved to use area rather than frontage for commercial assessments.

Mr. Brown indicated support for the motion. He said the council could wait for an actual example and might want to consider a combination of approaches. He did not think each LID had to be governed by ironclad rules and there might be some changes that could be made that were beneficial to everyone. He called for a commonsense approach.

Mr. Clark questioned the impact on the City share of project costs. Mr. Schoening said in some cases it would make no difference but in other cases in would make a big difference. Staff recommended frontage because frontage did not change but lots could be divided between the time the LID was formed and assessed.

Responding to a question from Ms. Solomon, Mr. Schoening said there was no maximum assessed frontage for residential properties. Ms. Solomon did not support the motion. She had reviewed a map of Bethel Drive and found that there were many large lots that drew no or little traffic and had little impact on the use of the road, while other, smaller lots attracted a lot of traffic.

Mr. Pryor wanted more time to think about the issue. He could see the arguments for both sides. His inclination was to vote no on the motion as a safeguard.

Mr. Poling pointed out the council's vote on the motion did not represent a final decision. He could see arguments for both sides and was willing to support Ms. Taylor's motion to start the public process. He could still change his mind after hearing from the public.

Mr. Clark could also see the arguments for both sides but supported the staff recommendation for frontage.

Ms. Solomon asked that staff ensure that it provided maps for the discussion of commercial nonresidential lots.

Ms. Taylor suggested the council could look maps of other neighborhoods and come to another conclusion. She pointed out that the council's actions would be in place for some time to come.

Mayor Piercy suggested the council consider a motion that stipulated that both options for nonresidential properties were being moved along for further discussion, which did not limit councilors to a yes or no. Ms. Taylor and Mr. Poling accepted Mayor Piercy's suggestion as a friendly amendment to the motion.

> Ms. Taylor, seconded by Mr. Poling, moved to forward both the frontage and area options for non-residential properties for further discussion. The motion passed unanimously, 7:0.

Mayor Piercy reported she had just returned from a meeting of the Oregon Transportation Commission, which discussed the composition of the Lane County Area Commission on Transportation, in particular the number of citizen representatives and who they were appointed by. She said the commission returned the questions for resolution to Lane County.

Mr. Clark adjourned the meeting at 1:15 p.m.

Respectfully submitted,

Sandra J. Stubbs Deputy

Beth Forrest
City Recorder

(Recorded by Kimberly Young)